

REMARKS

The Office Action, mailed December 16, 2005 considered and rejected claims 1-38. Claims 1-2, 6-12, 14-20 and 23-38 were rejected under 35 U.S.C. 102(e) as being anticipated by Pierre (U.S. Patent Application Publication No. 2003/0070182). Claims 3 and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre in view of Palmer (U.S. Patent Application Publication No. 2001/0038690). Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre in view of Palmer as applied to claim 3 above, and further in view of Wong (U.S. Patent No. 5,631,745). Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre in view of Goldman (U.S. Patent No. 4,995,074). Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre in view of Jennings (U.S. Patent Application Publication No. 2004/0025186). Claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre in view of Palmer as applied to claim 21 above, and further in view of Kilby (U.S. Patent No. 3,770,067).¹

Pierre, the primary reference, was relied upon in rejecting each of the claims. Applicant respectfully submits, however, that Pierre does not qualify as valid prior art following this response. In particular, the priority date of the present invention, as established by this response, proceeds the earliest known priority date of Pierre. Even more particularly, the newly established invention and priority date of the present application is May 5, 2001, which clearly proceeds the Oct. 5, 2001 filing date of Pierre.

In establishing the new invention and priority date of the present invention, Applicant has submitted two declarations and a disclosure packet in support of the earlier invention date. Because the inventor is now deceased, the declarations have been signed by other interested parties, who are attorneys for the Applicant, as permitted by statute. (See MPEP 715.04 and 37 CFR 1.131).

In view of the foregoing, all of the rejections of record are now moot, such that all of the pending claims should be found in immediate condition for allowance.

¹ Although some of the assertions made with regard to the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last office action, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 16 day of March, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick D. Nydegger", written in a cursive style.

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